

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA,

v.

BASIL WILLIAMS,

Appellant,

Crim. No. 98-10185(NG)

NOTICE OF MOTION PURSUANT TO 28 U.S.C. § 1331;
28 U.S.C. § 1651; 28 U.S.C. § 2201(a); FED.R.CRIM.P. 57(b).

COMES NOW, Basil Williams, the defendant, and appellant in the above referenced criminal matter, hereby moves this Honorable Court, the United States District Court for the District of Massachusetts, the Honorable Nancy Gertner, United States District Judge, for an Order; (1) consistent with this Circuit's precedent in modifying the Judgement rendered on June 27, 2001, pursuant to United States v. Melendez-Santana, 353 F.3d 93 (1st Cir. 2003), in which it was held that, "[a] sentencing court may not ... vest the probation officer with the discretion to order a specified number of drug tests, and must determine whether the defendant has to undergo drug treatment, 'either at the time of sentencing, or later in response to a motion by the probation officer.'" Id. at 101-103 (footnote

omitted); (2) for modification of the term of imprisonment imposed on June 27, 2001, based on the reasoning of the Fifth Circuit Court of Appeals in United States v. Bounds, 943 F.2d 541 (5th Cir. 1991) and collecting cases, in which the imposition of a term of three-years supervised release, "breached the plea agreement" by virtue of it's silence, and which affected the appellant's "substantial rights." United States v. Olano, 507 U.S. 725, 732-36, 113 S.Ct. 1770, 123 L.Ed.2d 508 (1993); United States v. Riggs, 287 F.3d 221 (1st Cir. 2002) as is discussed herein; and for an Order for such other and further relief as this Honorable Court deems just and proper.

June 5, 2005

Respectfully,

Basil C. Williams
Basil Williams

To: Patrick M. Hamilton
Assistant United States Attorney
John J. Moakley Courthouse
1 Courthouse Way, Suite 9200
Boston, MA
02210